

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

WILLARD BALUYOT,)	
)	
Plaintiff,)	
)	
vs.)	CAUSE NO. 1:21-cv-434
)	
ONE SOLUTION LOGISTICS)	
OF INDIANA, INC.,)	
)	
Defendant.)	
)	

COMPLAINT AND DEMAND FOR JURY TRIAL

I. NATURE OF THE CASE

1. Plaintiff, Willard Baluyot (“Baluyot”), by counsel, bring this action against Defendant, One Solutions Logistics of Indiana, Inc., (“Defendant”) alleging violations of the Americans with Disabilities Act, as amended, 42 U.S.C. §12101 *et. seq.* and Family and Medical Leave Act of 1993, (“FMLA”), as amended, 29 U.S.C. §2601 *et seq.*

II. PARTIES

2. Baluyot is a resident of Decatur County, Indiana which is within the geographical boundaries of the Southern District of Indiana.

3. Defendant maintains offices and conducts business within the geographical boundaries of the Southern District of Indiana.

III. JURISDICTION AND VENUE

4. Jurisdiction is conferred on this Court over the subject matter of this litigation pursuant to 28 U.S.C. §1331; 28 U.S.C. §1343; 42 U.S.C. §12117; and 29 U.S.C.

§2617(a)(2).

5. Defendant is an “employer” as that term is defined by 42 U.S.C. §12111(5)(A) and 29 U.S.C. §2611(4).

6. Baluyot, at all times relevant, was an “eligible employee” as that term is defined by 29 U.S.C. §2611(2).

7. Baluyot was an “employee” as that term is defined by 42 U.S.C. §12111(4).

8. Baluyot satisfied his obligation to exhaust his administrative remedies having timely filed Charges of Discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”) against Defendant alleging disability discrimination. Baluyot received the required Notice of his Right to Sue and timely files this action.

9. A substantial part of the events, transactions, and occurrences relevant to this lawsuit arose within the geographical environs of the Southern District of Indiana; thus, venue is proper in this Court.

IV. FACTUAL ALLEGATIONS

10. Baluyot was hired by Defendant on or about August 25, 2008. Most recently, Baluyot served in Business Support - Cost Tracking.

11. At all times, Baluyot met or exceeded Defendant’s legitimate performance expectations.

12. Baluyot suffers from a disability as that term is defined by the Americans with Disabilities Act. He suffers from Guillain-Barre Syndrome (GBS) and Chronic

Inflammatory Demyelinating Polyneuropathy (CIDP). These are neurological disorders that cause pain and weakness in his legs.

13. Between June 2019 and the end of the year, Baluyot utilized leave under the FMLA as his condition deteriorated, with the bulk of the time missed occurring in relation to the IVIg treatments that Baluyot underwent for his CIDP beginning in or about October 2019.

14. In or about July 2019, Baluyot met with Jennifer McGavin and Tonya Wright, his manager at the time, and requested to work from home as an accommodation for his disability. Baluyot's request was denied without the Defendant ever meaningfully engaging in the interactive process.

15. On or about February 17, 2020, Defendant told Baluyot that his position was being eliminated because it was being outsourced. However, Defendant replaced Baluyot almost immediately afterward with Jennifer Harter, who had served as his back-up while he was on FMLA.

16. Further, Defendant retained less senior, less qualified employees who were not disabled.

17. Moreover, there were a variety of open positions then and thereafter for which Baluyot was qualified and could have filled. When Baluyot inquired about being reassigned to a different position, his request was denied.

18. Defendant selected Baluyot to be eliminated due to this use of leave under the FMLA and the number of absences and other difficulties caused by his disability.

V. CAUSES OF ACTION

COUNT I – FMLA - RETALIATION

19. Baluyot hereby incorporates paragraphs one (1) through eighteen (18) of his Complaint.

20. Defendant retaliated against Baluyot for exercising his rights under the FMLA.

21. Defendant's actions were intentional, willful, and in reckless disregard of Baluyot's rights as protected by the FMLA.

22. Baluyot suffered damages as a result of Defendant's unlawful actions.

COUNT II: DISABILITY DISCRIMINATION

23. Baluyot hereby incorporates by reference paragraphs one (1) through twenty-two (22) of his Complaint as if the same were set forth at length herein.

24. Defendant discriminated against Baluyot on the basis of his disability by subjecting him to disparate treatment in that he was selected for job elimination because of his health condition.

25. Defendant discriminated against Baluyot on the basis of his disability by failing to engage in the interactive process in good faith and denying his reasonable accommodations, such as his request to work remotely.

26. Defendant's actions were intentional, willful and in reckless disregard of Baluyot's legally protected rights as protected by the Americans with Disabilities Act, as amended, 42 U.S.C. §12101 *et. seq.*

27. Baluyot has suffered damages as a result of Defendant's actions.

VI. REQUESTED RELIEF

WHEREFORE, Plaintiff, Willard Baluyot, respectfully requests that this Court enter judgment in his favor and award him the following relief:

1. All wages, benefits, compensation, and other monetary loss suffered as a result of Defendants' unlawful actions;
3. Pay compensation for any and all other damages suffered as a consequence of Defendants' unlawful actions;
4. Pay liquidated damages for Defendants' violation of the FMLA;
5. Pay compensatory damages under the ADA;
6. Pay punitive damages under the ADA;
7. All costs and attorney's fees incurred as a result of bringing this action;
8. Pre- and post-judgment interest on all sums recoverable; and
9. All other legal and/or equitable relief this Court sees fit to grant.

Respectfully submitted,

BIESECKER DUTKANYCH & MACER, LLC

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DEMAND FOR JURY TRIAL

Plaintiff, Willard Baluyot, by counsel, requests a trial by jury on all issues deemed so triable.

Respectfully submitted,

BIESECKER DUTKANYCH & MACER, LLC

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